

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006035

Variance

Hearing Date:

May 10, 2006

Agenda Item:

10

Supervisory District:

1

Applicant/Owner:

Stuart Booth

Request:

Variance to permit:

An existing attached accessory structure (Arizona room) to setback 20 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district.

This variance is requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.4.2

Site Location:

17426 S. 157th Place – Pecos and Greenfield Roads (Gilbert area)

Site Size:

105,589 square feet (2.42 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition:

One letter of support was submitted with this request.
No opposition is known.

Staff

Recommendation:

Approve with stipulations

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence/vacant
South: Single-family residence
East: Single-family residence
West: Single-family residence

Background:

3. **Circa 1976:** Zoning Clearance **76-3520** was issued to allow the construction of a single-family residence.
4. **Circa 1977:** Parcel **304-53-015S** was split to create parcels **304-53-103** and **304-53-104**, the subject site, via a deed recorded under docket **12292-671**.
5. **August 16, 1996:** The current owners took possession of the subject site via a Warranty Deed recorded under docket **96-0581269**.
6. **May 2, 2002:** The current owner took possession of the subject site via a Quit Claim Deed recorded under docket **2002-0457526**.
7. **December 13, 2005:** The owner applied for building permit **B200517781** for a 104 linear foot swimming pool.
8. **December 29, 2005:** The owner applied for building permit **B200518550** for 130 linear feet wrought iron pool barrier fence.
9. **March 16, 2006:** The owner had a variance pre-application meeting with the Planning Department staff.
10. **March 24, 2006:** The owner applied for this variance request.

Findings:

11. **Maricopa County Department of Transportation:** No response at the time this report was written.

12. **Flood Control District:** No objection to the subject request (see attachment).
13. **Environmental Services Department:** No response at the time this report was written.
14. **Drainage Administration:** No objection to this variance request.

Site Analysis:

15. The subject site is a rectangular shaped lot measuring 240 feet in width and 440 feet in depth for a total area of 105,589 square feet. The property fronts onto 157th Place to the east and takes access directly from 157th Place, which is a 30-foot wide semi-improved two lane dirt road. The site is enclosed on all sides, except the front, by 5-foot high pipe rail and wire fencing while the interior of the site is segmented into various equestrian uses by 54" rail fencing. There is also an irrigation ditch that runs along the entire width of the rear property line. The site is level, free of any physical or topographical hardships, is orderly in appearance and is landscaped with lawn or grass for the existing pastures.



Aerial view of subject site and surrounding area

16. The site is currently developed with a 2,513 square foot single-family residence with an attached 700 square foot Arizona room. There are three detached accessory structures; a 288 square foot storage shed, a 600 square foot horse shade and a 1,020 square foot hay barn. Staff found a zoning clearance for the single-family residence that was issued in 1976 but was unable to find any permits for the accessory structures. The owner currently has permits in plan review for a swimming pool and pool barrier fence.
17. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	48-feet
Rear Yard Setback (residence)	40-feet	322-feet
Rear Yard Setback (accessory)	3-feet	103-feet
Side Yard Setback (residence)	30-feet	40-feet
Side Yard Setback (accessory)	30-feet	20-feet
Street Side Setback	20-feet	N/A
Maximum Height	30-feet/2 stories	**
Minimum Lot Area	43,560 sq. ft.	105,589 sq. ft.
Minimum Lot Width	145-feet	240-feet
Lot Coverage	15%	4.85%

*Standards indicated in **bold** do not meet minimum base zoning standards.

**Information was not provided by the owner.

Land Use Analysis:

18. The subject site is located in a Class I county island in the southeastern portion of the County surrounded by the Town of Gilbert. Greenfield Road is approximately ¼ mile to the east and Pecos Road is 800 feet north of the subject site. The Town of Gilbert's jurisdictional boundary is located approximately 400 feet west and east of the subject site and to the north along Pecos Road. The future San Tan Freeway (Loop 202) will be approximately 1000 feet northwest of the site while the Gilbert Medical Center, which is under construction, is located approximately 2,000 feet southwest of the subject site.
19. The immediate area around the subject site has been primarily developed through the lot splitting process although there are some recorded subdivisions in the general area. The property is located in an area previously used for agricultural purposes. Some agricultural uses are still present in the area; however these existing uses are rapidly being replaced by residential and commercial properties with the eastward progression of the San Tan freeway.

20. Many of the homes in the immediate area were constructed in the late 1970's which is the same time period as the residence on the subject site. The immediate area is zoned Rural-43 (County) with the surrounding areas zoned Rural-43 (County) and GC, GO, PF/I, RC, SF-D, SF-10 and SF-35 (Gilbert). Subdivisions located near the site in the County are Claxton Harvey Western Ranchettes, Home Place Acres and Poco Bueno Ranchos while Spectrum at Val Vista, Village at Spectrum, Vincenz and Whitewing at Higley are located in the Town of Gilbert.
21. Staff research indicates that eleven Board of Adjustment cases have been heard within one mile of the subject site and of these eleven; six were relevant to this case. Their summaries are as follows:
- Case **BA2004075** was for variance requests to permit: 1) an existing detached accessory structure (barn) to setback 0 feet from the side (west) property line where 30 feet is the minimum required; and 2) an existing building separation distance (shade/shade) of 11 feet where 15 feet is the minimum required in the Rural-43 zoning district. These requests were denied by the Board of Adjustment. The property is located at 16619 S. Greenfield Road approximately ½ mile northeast of the subject site.
 - Case **BA2003145** was a variance request to permit an existing attached garage to setback 26 feet from the side (west) property line where 30 feet is the minimum required in the Rural-43 zoning district. The request was approved by the Board of Adjustment with stipulations. The property is located at 15942 E. Maplewood Street approximately ½ mile southeast of the subject site.
 - Case **BA2002096** was a variance request to permit an existing addition (under construction) to an existing accessory structure (barn) to setback 6 feet from the side (east) property line where 30 feet is the minimum required in the Rural-43 zoning district. The request was denied by the Board of Adjustment. The property is located at 16119 E. Frye Road approximately ¾ miles northeast of the subject site.
 - Case **BA2002075** was a variance request to permit a proposed single-family residence to setback 8 inches from the street side (west) property line where 20 feet is the minimum required in the Rural-43 zoning district. The request was denied by the Board of Adjustment. The property is located at 15610 E. Melrose Street approximately 2/3 miles southwest of the subject site.
 - Case **BA2002055** was a variance request to permit an existing detached accessory structure (barn) to setback 15 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. The request was approved by the Board of Adjustment with stipulations. The property is located at 18033 S. 154th Street approximately ½ mile southwest of the subject site.

- Case **BA2002017** was for variance requests to permit: 1) an existing detached accessory structure (horse shade) to setback 7 feet from the side (east) property line where 30 feet is the minimum required; and 2) an existing detached accessory structure (shed) to setback 5 feet from the side (east) property line where 30 feet is the minimum required in the Rural-43 zoning district. These requests were denied by the Board of Adjustment. The property is located at 15312 E. Germann Road approximately 1 mile southwest of the subject site.

Plan Analysis:

22. The owner is seeking a variance to allow an existing attached accessory structure (Arizona room) to setback 20 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. This request came about when the owner's representative applied for a swimming pool and pool barrier fence and was informed by the Plan Review Division that the Arizona room did not meet the minimum side yard setback for the zoning district. The rationale for the 30-foot setback from the property line is to promote an open, rural atmosphere between adjoining lots in the Rural-43 zoning district. As noted previously, the single-family residence received a zoning clearance in 1976 so staff would have to believe that the structure would have met all the required zoning setbacks with the issuance of that clearance. The original 5-acre site was split but it was split north to south which would not have affected the setbacks of the residence on the southern property line. The owner submitted a photograph showing that the Arizona room and the house are constructed out of the same slump block material. Staff would agree that the house and the Arizona room seem to be constructed out of the same material and that the slump block appears to have aged consistently and evenly on both structures thereby suggesting that they were built at the same time and that the Arizona room was not recent addition.
23. Available alternatives to this variance request are to move the structure completely into the building envelope or to remove the portion of the structure which is in the required side yard setback. Unfortunately, neither of these alternatives is practical or feasible for a structure of this type of construction. Another alternative would be to purchase an additional 10 feet of land from the property to the south. While the property owner to the south does have enough land to sell to the applicant, they are not required by law or good nature to do so. Also, this property is currently developed with equestrian uses. Since the existing single-family residence and Arizona room are soundly constructed, with a zoning clearance from 1976, not out of character with the surrounding properties and is approximately 155 feet from the nearest structure on the neighboring property to the south, staff is recommending that the Board approve this variance request.

Recommendation: (BA2006035)

24. Staff recommends **approval** of the variance request based on the following:

- The relief requested is the minimum required necessary to provide the owner with full use and enjoyment of the property.
- Granting this request will not result in a negative impact to the surrounding properties.
- The request does not conflict with the intent of the Zoning Ordinance.

Subject to the following stipulations:

- a) General compliance with the site plan entitled "Stuart Booth Arizona Room Variance Request" stamped received March 24, 2006.
- b) The owner shall obtain as-built permits for all structures within 120 days of Board approval.
- c) The owner shall obtain all zoning clearances/building permits before commencing construction.

25. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

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Attachments: Case Map BA2006035
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire (2 pages)
Photographs (4 pages)
Letter of support
Floodplain Review Response